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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1984

Addendum

CYPRUS*

[8 July 1994]

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* This document contains information submitted by the Government of Cyprus to supplement its second periodic report (CCPR/C/32/Add.18).

Introduction

Supplementary information and recent developments

1. The delegation of Cyprus submits the information and material contained in this document as supplementary to the information contained in the second report.

2. The present document also contains information relating to events which occurred after the submission of the second report. It is intended to facilitate the members of the Committee in the examination of that report.

Parliamentary control

3. An additional safeguard against any indiscretion of the executing authority is the exercise of control by the House of Representatives. The House of Representatives may, under Article 73.1 of the Constitution, regulate any matter of parliamentary procedure and of the functions of its offices. In 1980 the House issued standing orders regulating the functions of its standing committees, which can inquire into any matter not necessarily associated with legislative bills or proposals. In 1985 a law was enacted regulating the submission of particulars and information before the House of Representatives and the standing committees (Submission of Particulars and Information to the House of Representatives and the Standing Committees Law of 1985 (Law No. 21 of 1985)). Under this Law the standing committees of the House of Representatives have power to ask for the submission before them of written or verbal information by the public services of the Republic, public or private bodies and any private individual which in their opinion is necessary for the performance of their functions in investigating any matter within their jurisdiction. Persons called to submit information and particulars before any Standing Committee are bound to do so but they are not bound to give information or particulars on certain matters which may be self-incriminating or are likely to cause them real or moral injury or are likely to violate a code of professional ethics or is likely to be injurious to the interests of the Republic on matters of defence and foreign relations. The House may refer any matter, for investigation either by the Attorney General or by a specially constituted investigating committee.

Article 1. Self-determination

4. In Cyprus there are democratic elections enabling its people to determine their political status and to pursue in a free manner their economic, social and cultural development.

5. In addition to the election of the President of the Republic and of representatives for the House of Representatives there are free elections for chairpeople of the local administrative authorities.

6. The local administrative authorities are the municipalities, the improvement boards and the village commissions. A town is divided into districts and for each district there is a commission. The municipal elections are conducted every five years, for the election of the mayor and the members of the municipal commissions. The number of members of the

municipal commission varies according to the population of the municipal area. There are six members for areas with not more than 8,000 people and 26 for areas with more than 45,000 people. The right to vote is accorded to every resident of the municipal area who has reached the age of 18 years. The exercise of the right to vote is compulsory. The law in force regulating municipalities is the Municipal Law of 1985 (No. 111 of 1985).

7. The elections are conducted freely and in an orderly manner. In the law there is a provision for the creation of new municipalities. The last elections for existing municipalities were conducted in 1991 (22.12.91) and there were no objections or complaints about the manner in which they were conducted. In April 1994 there were elections for members of newly constituted municipalities which again were conducted in an orderly manner without any incidents and without objections.

Article 2. Elimination of discrimination

8. In addition to what was stated in the previous report the following information is given.

9. A recent legislative development regarding acts amounting to incitement to discrimination, hostility, hatred and violence on account of ethnic or racial origin or for religious reasons is the enactment of Law No. 11 (III) of 1992 which amended the Convention on the Elimination of All Forms of Racial Discrimination (Ratification) Law of 1967 (No. 13 of 1967). The ratifying law is amended by the addition of a new section whereby a number of offences are created relating to acts amounting to racial discrimination. The new section (sect. 2A) reads as follows:

> "Offences 2A. (1) Any person who in public either orally or through the press or any document or picture or by any other means, intentionally incites acts or activities which are likely to cause discrimination, hatred, or violence against any person or group of persons by reason only of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding two years or to a fine not exceeding one thousand pounds or to both.
>
> "(2) Any person who establishes or participates in any organization which promotes organized propaganda or activities of any form aiming at racial discrimination is guilty of an offence and is liable to the punishments provided in subsection (1).
>
> "(3) Any person who in public either orally or through the press or any documents or pictures or by any other means expresses ideas insulting against any person or group of persons by reason of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding five hundred pounds or to both.
>
> "(4) Any person who by profession supplies goods or services and who refuses to any person such supply by reason only of his racial or ethnic origin or his religion or makes such supply subject to a term relating to the racial or ethnic origin or to the religion of anybody is

guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding four hundred pounds or to both such punishments."

10. Any citizen of the Republic may be appointed a government minister or be a candidate for election as President of the Republic or as a member of the House of Representatives provided he possesses the required qualifications.

11. The elections in Cyprus are: (a) direct, (b) by universal suffrage and (c) by secret ballot. The right to vote and stand for election without any discrimination on the ground of ethnic origin or any other ground, is safeguarded by law. In accordance with the Constitution there are elections for President and Vice-President.

12. Any citizen of the Republic can also be appointed to the public service if he possesses the relevant qualifications that are required by the Public Service Laws and the relevant schemes of service (which are now submitted for approval to the House of Representatives and are published in the Official Gazette).

Religious minorities

13. In Cyprus there are, in addition to the main religious groups of Orthodox Christians and Muslims, the religious groups of the Maronites, the Armenians and the Latins. The Constitution safeguards all the fundamental human rights and freedoms of all religious groups, in the same way. In addition, they enjoy constitutional protection against any form of discrimination, both as individuals and as a group. The members of these groups are appointed to the public service without any discrimination. Under Article 109 of the Constitution they have the right to be represented in the Communal Chamber of the community to which they have opted to belong. The aforesaid groups opted to belong to the Greek Community.

Education and teaching

14. History and civics curricula have, as one of their main objectives, the promotion of respect for other people and understanding of their contribution to civilization and the importance of the spirit of cooperation between nations. More specifically in the history and civic curricula it is suggested:

(i) That pupils should be made conscious of the fact that the world culture is the result of collective human effort, struggle and sacrifice;

(ii) That historical events should be represented from various points of view and in an objective manner;

(iii) That pupils should understand the interdependence of people and their need to communicate and cooperate;

(iv) That pupils should develop an interest in world problems;

(v) That pupils should be encouraged to avoid dogmatism and make use of dialogue to reach mutual understanding;

(vi) That their approach to other people should be one of tolerance and mutual respect;

(vii) That they should respect the right to self-determination and racial equality.

15. Books used in the teaching of literature include texts of foreign literature presenting human situations common to all nations. Texts presenting brotherly relations between peoples of different ethnic origin are also used. International understanding is also sought through the foreign language curricula and methodology.

16. Furthermore, one of the purposes of the University, which is particularly important as far as racial discrimination is concerned, is contributing towards mutual understanding between the communities of the Republic and the promotion of their traditions and civilizations.

Article 3. Equality

17. In addition to the legislative measures, taken and contemplated, which are set out in the second report, there has been a proposal since then for the amendment of the Social Insurance Law regarding the period of maternity leave. By the proposed amendment the maternity leave will be increased from 12 to 14 weeks. It must be mentioned that in accordance with the Social Insurance Law maternity benefit is granted for a period of 16 weeks.

18. Apart from the legislative measures safeguarding the equality of women, women in Cyprus are now playing an important role in the administration and other facets of public and social life. The prejudices of the past are rapidly fading away and are gradually being eradicated from peoples' minds. There are now women in the Council of Ministers, the judiciary, the legislature, the Office of the Attorney General, the police force, the army and other fields, something which until 30 years ago did not exist as all these positions were considered exclusively men's jobs. On the other hand fields which were mainly reserved for women like nursing, are now being entered by men as well.

19. The right to equality is not a dead letter of the law but is respected and enforced by Courts of Law in the everyday administration of justice. There was recently a successful court case concerning a pregnant woman who was dismissed from her job on the ground that she became pregnant (case No. 32/93 of the Industrial Dispute Court). The facts of the case are briefly as follows. A broadcasting company under the control of the Church of Cyprus dismissed a female employee from her post as a coordinator under a contract of service on the ground that she broke an express or implied term of the contract and that she became pregnant without being married. An action for damages was filed against the company. The Industrial Tribunal Court, after examining the facts of the case in the light of the Termination of Employment Law and the Protection of Maternity Law, awarded damages to the applicant for wrongful dismissal on the following grounds:

(a) The contract of service for the particular post concerned the applicant's qualifications and qualities for the proper execution of her duties which fell within the ambit of industrial law and her personal position did not constitute a condition of the contract between the parties.

(b) The Protection of Maternity Law did not make any distinction between married and unmarried women; thus such distinction could not be made in the present case by the Industrial Tribunal Court. However, even if that was not what the law provided, the fact that similar situations in the personal life of male employees were not grounds for terminating their contract of employment, amounted to discrimination against the applicant in this case on the grounds of sex.

Article 6. Right to life

20. The following supplementary information is given regarding the right to life.

21. There were no reported cases of arbitrary killing by the security forces.

22. There were no cases of disappearance of persons whilst detained by the authorities. There are however cases of missing persons falling victims of crimes committed by private individuals.

23. Cyprus has a healthy economy and a good health programme. Therefore the problems of infant mortality, short life expectancy, malnutrition and epidemics are non-existent.

24. Cyprus does not produce, test, possess, deploy or use chemical, biological or nuclear weapons. Nevertheless it has ratified the following Conventions:

Treaty Banning Nuclear Weapon Test in Atmosphere on Outer Space and Under Water. (Ratifying Law No. 13 of 1965);

Treaty on the Non-Proliferation of Nuclear Weapons. (Ratifying Law No. 8 of 1970);

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and the Subsoil Thereof. (Ratifying Law No. 63 of 1971);

Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and Protocol. (Ratifying Law No. 3 of 1973);

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction. (Ratifying Law No. 56 of 1973);

Agreement on the Privileges and Immunities of the International Atomic Energy Agency. (Ratifying Law No. 31 of 1978);

Amendment of the Constitution of the International Atomic Energy Agency. (Ratifying Law No. 25 of 1988);

Convention on Early Notification of a Nuclear Accident. (Ratifying Law No. 164 of 1988).

Article 7. Torture

25. In addition to the information supplied in the Second Report the following developments have occurred since then.

26. In June 1993 the Government of Cyprus submitted its initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (with a delay of only six months). The report was reviewed by the Committee against Torture on 18 November 1993.

27. On 3 September 1993 the Council of Ministers, in view of certain allegations of ill-treatment of citizens by the police, appointed an independent commission of inquiry to investigate all complaints of ill-treatment in the two-year period prior to the date of the order. The Commission of Inquiry is composed of a president and two members. The President of the Commission is a retired supreme court judge and the members a public attorney and a private lawyer. The Commission started the inquiry early in 1994 and its constitution and functions were widely publicized by the mass media. The inquiry is still in progress.

28. Another development is the contemplated amendment of the law for the Commissioner of Administration so as to clarify his functions and include in them the hearing of complaints of ill-treatment of citizens by the authorities. A bill for the amendment of the law is pending before the House of Representatives.

29. Public opinion was sensitized by the complaint of a particular individual who alleged, on his release, that he was ill-treated whilst in custody on suspicion of robbery. As a result of that allegation, an independent special investigator was appointed (not a member of the police force) to investigate the complaint. When the special investigator completed his inquiry he submitted his report to the Attorney General in accordance with the procedure provided in the relevant section of the law. The Attorney General filed criminal charges for torture against two senior police officers and the case was heard by the Assize Court. The trial lasted for more than three months. The prosecution was handled by the Deputy Attorney General himself, which is an indication of the sensitivity of the authorities on matters of torture and ill-treatment of detainees. The Court did not call upon the accused to make their defence, not being satisfied by the evidence adduced and the credibility of witnesses that a prima facie case was made out. Following this and although an appeal does not lie on acquittal the Attorney General pursued the matter further and applied for the issue of a writ of certiorari on the ground that the decision of the Court was, on the face of it, wrong. The Supreme Court dismissed the application. According to information received, the complainant will pursue the matter further by filing an individual recourse to

the Commission on Human Rights under article 25 of the Convention. The trial of another case involving police officers was concluded only recently and on the evidence adduced the accused police officers were not convicted.

30. In accordance with the legal system, a person cannot be held without a court order for more than 24 hours and any detention in contravention of this provision is illegal. There were no reports of any contravention of this provision. Therefore the "disappearance" of persons is unknown in Cyprus, which is a small country and any disappearance would not pass unnoticed. However, the setting up of a central registry for entering the names of detainees and the place of their detention is something which the authorities are seriously considering.

31. Corporal punishment as a method for correction in educational or medical institutions is not resorted to any more, despite the fact that the application of force in certain circumstances may amount to a defence. The relevant provision of the law which absolves from liability the person applying force is section 27 of the Civil Wrongs Law (cap. 148). The following parts of the section are pertinent to the use of force for the purpose of correction.

Section 27.

In any action brought in respect of any assault it shall be a defence -

...

(b) .....

(c) .....

(d) .....

(e) that the plaintiff was of unsound mind or was suffering from infirmity of mind or body and that the force used was, or appeared to be, reasonably necessary for his own protection or for that of other persons and was exercised in good faith and without malice.

...

(g) that the defendant was the parent, guardian or schoolmaster of the plaintiff or other person whose relationship to the plaintiff was similar to that of his parent, guardian or schoolmaster, and administered to the plaintiff only such chastisement as was reasonably necessary for the purpose of correction.

The above provisions are contained in a law enacted in 1922 and its application is subject to legislation of superior force. The present Covenant and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, after their ratification by the Government of Cyprus became part of the law of Cyprus and according to Article 169 of the

Constitution they are of superior force to municipal law. The above provision, as well as other similar provisions which do not appear to conform with our international obligations, will shortly be reviewed.

32. In practice there is respect of the above article by the educational and institutional authorities and there are only a few complaints of violations. In fact there were two or three reports of teachers using violence (usually slaps) in the last three years as a method for chastising pupils. The appropriate authority took disciplinary measures against the teachers involved.

33. Any scientific experimentation without the free consent of the person concerned amounts to an assault which is both a criminal offence and a civil wrong.

34. Section 27 (h) of the Civil Wrongs Law provided a defence for persons who applied force on persons unable to give their consent if they have acted in good faith. The paragraph reads:

> *"27 (h) ... that the defendant acted in good faith for what he had reason to believe to be the benefit of the plaintiff but was unable before doing such act to obtain the consent of the plaintiff thereto, as the circumstances were such that it was impossible for the plaintiff to signify his consent or for some person in lawful charge of the plaintiff to consent on behalf of the plaintiff and the defendant had reason to believe that it was for the benefit of the plaintiff that he should not delay in doing such act."*

35. In 1987 a Law was enacted regulating the removal and transplant of biological substances of human origin (Removal and Transplant of Biological Substances of Human Origin Law 1987 (No. 97 of 1987). Under the Law the removal of a substance from a living being is only permitted subject to certain conditions; one of them is the consent of the donor. The removal of a substance from a dead body is only permitted under certain conditions. For the purposes of this part of the law the criteria for determining death are defined. There are further provisions for the means of removal, the removal of eyes, the cost of removal, the donation of the body after death and the legal nature of the removal. In 1989 regulations were made for the better implementation of the Law.

36. The interrogation of suspects or witnesses must be carried out very carefully and according to the rules, because any statement vitiated in any way by the use of force or any form of oppression is rejected by the courts if tendered as evidence. In Cyprus an investigator must apply certain rules which under English law are known as the Judges Rules and set very high standards for the interrogation procedure. Those Rules were made part of the law of Cyprus (Criminal Procedure Law, cap. 155, sect. 8). The manner of interrogation is one of the subjects included in the programme of the Police Academy.

37. Under the Prisons (General) Regulations of 1981, corporal punishment or confinement in a dark cell and every cruel, inhuman or degrading punishment, as disciplinary measures against prisoners, are prohibited (Reg. 88).

38. Under Regulation 80 of the same Regulations, the isolation of a prisoner is permissible provided that, if such isolation is likely to have adverse effects on the prisoner, it can only be resorted to if a medical officer certifies that the prisoner can sustain such treatment.

39. It must be mentioned that the Prisons Law and Regulations are at present at an advanced stage of revision with a view to their being modernized and brought into conformity with the legislation of other European countries. The main characteristic of the new law and regulations is the improvement of the existing system. In particular:

(a) Prisoners are enabled to attend weddings, funerals and other family events, either under guard or with a special permit of absence. This improves the existing provisions;

(b) There are provisions enabling prisoners to have contacts for securing employment after their release;

(c) Also there is provision for the arrangement of private meetings of prisoners with their spouses (new provision).

40. Detention of persons suffering from a contagious or infectious disease is allowed under the Infectious Diseases (Prisoners) Law (cap. 284). This Law was enacted in 1880 and applied only to prisoners. However, there are no reported cases of the Law being resorted to in the last 30 or 40 years and it seems that it is antiquated and in fact will be repealed with the enactment of the new Prisons Law.

41. Another law imposing restrictions on the movement of people is the Quarantine Law (cap. 260, enacted in 1932). The Law regulates the imposition of quarantine for the prevention of introduction and spread of dangerous infectious diseases. Dangerous infectious diseases under the law are cholera, plague, smallpox, typhus and yellow fever and any other disease of an infectious or contagious nature which may be declared to be so by notification. It is worth mentioning that under the Quarantine (Public Health) Regulations made under the Quarantine Law certain persons knowingly suffering from dangerous infectious diseases cannot carry on any trade or calling connected with the sale of foodstuffs and other trades involving close personal contact. Such persons are nurses, domestic servants, tailors, barbers, hoteliers and innkeepers, and others.

Article 10. Humane treatment of detainees

42. The revision of the Prison Law and Regulations is now at an advanced stage and is expected to be laid before the Council of Ministers for approval following which they will be laid before the House of Representatives for enactment. The following are some of the new provisions included in the revision to that law with the aim of improving the conditions of detention and of making detention more humane.

(a) Detention in open prisons;

(b) Establishment of a centre for guidance and employment outside the institution;

(c) The basic principles pertaining to detention are redefined;

(d) Remission of sentence on the grounds of good behaviour and industry;

(e) Leave of absence and escorting prisoners on visits outside the prisons;

(f) Arrangement for prisoners to meet in private with their spouses (or fiancees);

(g) Arrangement for the exercise of the right to vote.

43. In accordance with the Prisons Law now in force there is a prison council with a mixed membership, the main function of which is to hear complaints the prisoners may have. The Prison Council will be functioning more effectively with the amendments effected in the new Law.

44. Juvenile delinquents are as a rule dealt with by issuing probation orders placing them under the supervision of a probation officer. Such orders are subject to such conditions as the court may think appropriate to impose. A new law is under consideration providing for probation and other treatment of offenders whereby the court may direct an offender (not necessarily a juvenile) (with his consent) to be placed on probation with the special condition of executing communal work or of undergoing training in a chosen vocation.

Article 13. Aliens

45. The rights of aliens are closely connected with the acquisition of Cypriot citizenship and further with the right to freedom of religion, the right to marry and generally the right to equal treatment.

46. The provisions relating to the nationality of persons affected by the establishment of the Republic of Cyprus are contained in article 198 of the Constitution and article 6 of Annex D to the Treaty of Establishment.

47. Article 198 of the Constitution of the Republic provides that until a law relating to citizenship is enacted the following provisions will apply:

(a) Every issue relating to citizenship will be regulated by Annex D to the Treaty of Establishment, and

(b) A person living in Cyprus at the date of application of the Constitution or after that date acquires by birth the citizenship of the Republic if his father had acquired the citizenship of the Republic at that date or would have acquired this citizenship by the provisions of Annex D if he was alive.

48. In Annex D (art. 6) to the Treaty of Establishment, it is provided that:

(a) Citizens of the United Kingdom and Colonies who, on the date of the treaty, possessed any of certain specified qualifications (mainly persons of Cypriot origin from the male line) became citizens if they were resident in Cyprus at any time within two years prior to the date of the treaty;

(b) Citizens of the United Kingdom and Colonies who, on the date of the treaty, possessed any of the specified qualifications referred to in (a) above (mainly persons residing in Commonwealth countries) ceased to be citizens of the United Kingdom and Colonies unless they possessed certain specified qualifications;

(c) Citizens of the United Kingdom and Colonies who, before the date of the treaty, possessed any of the specified qualifications referred to in (a) above but did not become citizens under (a) above (mainly persons of Cypriot origin who did not reside in Cyprus between 16 August 1955 and 16 August 1960) could apply for citizenship if certain conditions were satisfied at any time;

(d) Citizens of the United Kingdom and Colonies could apply for citizenship within 12 months from the agreed date if certain specified qualifications were possessed;

(e) Women citizens of the United Kingdom and Colonies married to citizens who could apply for citizenship.

The Annex provides also for other cases where citizenship may be acquired upon application.

49. In 1967, The Republic of Cyprus Citizenship Law (43 of 1967), regulating matters pertaining to citizenship and other related matters, was enacted to supplement Annex D and to cover cases of persons born after the establishment of the Republic. In particular, it provides for the ways citizenship is acquired, renounced or revoked. Revocation can be exercised, under section 8 of the Law, by order of the Council of Ministers in the following circumstances:

When citizenship was acquired by fraud or misrepresentation;

When the citizen in question acted unlawfully or to the prejudice of the Republic;

When, in time of war in which the Republic was involved, the citizen in question communicated with the enemy or otherwise acted in a way prejudicial to the interests of the Republic;

When within five years of his acquisition of citizenship the citizen in question was convicted in any country and sentenced to imprisonment of not less than 12 months.

50. The Council of Ministers will not revoke citizenship under this Law unless satisfied that it is not in the public interest that the citizen in

question continues to be a citizen of the Republic. Moreover, before issuing an order for revocation the Council of Ministers sends written notice to the person against whom it is intended to issue the order and the person in question can apply for an investigation of his case.

51. Under the Law, citizenship is acquired: (a) by registration (sects. 2 and 5); (b) by naturalization (sect. 6).

52. Cypriot citizenship by registration is acquired by:

Persons of Cypriot origin born abroad after the Establishment of the Republic;

Citizens of United Kingdom Colonies or of Commonwealth countries of Cypriot descent, over 21 years of age;

Alien women married to Cypriot citizens;

Children under 21 years of age whose father or mother is a citizen of Cyprus.

An alien man married to a Cypriot woman cannot obtain citizenship by registration. He can, however, apply for naturalization under section 6 of the Law, but he has to satisfy the conditions required, one being residence of an aggregate of five years over a period of eight years prior to his application.

53. The Law relating to aliens and immigration is the Alien and Immigration Law (cap. 105). This Law was enacted in 1952 before Cyprus became a republic with a written constitution wherein the civil and political rights of the citizen were expressly declared and recognized. This Law contains provisions which are connected and related to the colonial regime under which it was enacted. According to article 188 of the Constitution "*all laws in force on the date of the coming into operation of this Constitution shall, until amended ... continue in force ... and shall, as from that date, be construed and applied with such modifications as may be necessary to bring them into conformity with this Constitution*". Therefore, the aforesaid Law has to be construed and applied in the light of the constitutional provisions.

54. Section 10 of the Law provides that no alien has an absolute right of entry. Entry is usually refused to persons who are prohibited immigrants or are not considered bona fide tourists (having insufficient foreign exchange or no return ticket).

55. Under section 6 of the Law the following persons are prohibited immigrants and their entry into Cyprus is not permitted:

(a) Any destitute person;

(b) Any idiot or insane or feeble-minded person or any person who for any other cause is unable to take proper care of himself;

(c) Any person certified my a medical officer to be suffering from a contagious or infectious disease which, in the opinion of the medical officer, is a danger to public health or who refuses to comply with the requirements of any regulations made under any enactment in the interests of public health;

(d) Any person who, not having received a free pardon, has been convicted of murder or an offence for which a sentence of imprisonment has been passed for any term and who, by reason of the circumstances connected therewith, is deemed by the immigration officer to be an undesirable immigrant;

(e) Any prostitute or any person living on the proceeds of prostitution;

(f) Any person who, from official government records or from information officially received by the Governor from a Secretary of State or from the Governor of any British Colony, Protectorate or Mandated Territory or from the Government of any foreign State or from any other trusted source, is considered by the Governor to be an undesirable person;

(g) Any person who is shown by evidence which the Governor may deem sufficient, to be likely to conduct himself so as to be dangerous to peace, good order, good government or public morals or to excite enmity between the people of the Colony or Her Majesty or to intrigue against Her Majesty's power and authority in the Colony;

(h) Any member of an unlawful association as defined in section 63 of the Criminal Code or any law amending or substituted for the same;

(i) Any person who has been deported from the Colony either under this Law or under any enactment in force at the date of his deportation;

(j) Any person whose entry into the Colony is prohibited under any enactment for the time being in force;

(k) Any person who enters or resides in the Colony contrary to any prohibition, condition, restriction or limitation contained in this Law or any regulations made under this Law or in any permit granted or issued under this Law or such regulations;

(l) Any alien who, if he desires to enter the Colony as an immigrant, has not in his possession, in addition to a passport bearing a British consular visa for the Colony, an immigration permit granted by the Chief Immigration Officer in accordance with any regulations made under this Law;

(m) Any person who is deemed to be a prohibited immigrant under the provisions of this Law.

(Note the references to the colonial regime are subject to revision and adjustment under article 188 of the Constitution.)

56. However there is power in the Government (Council of Ministers) to grant a licence for a prohibited immigrant to enter and remain in the country for such periods and subject to such terms and conditions as may be deemed fit.

57. Under section 13 a prohibited immigrant may be ordered to leave the island.

58. Under section 14 the Chief Immigration Officer is given the power to issue a deportation order. Section 14 (2) provides:

> "An alien who is ordered to be deported shall be deported:
>
> (a) To some place in the country to which he belongs, or
>
> (b) With the approval of the Council of Ministers to the place where he came from not being the country to which he belongs or to any place to which he consents to be deported provided that the Government of either such place consents to receive him."

59. Lastly, section 15 provides for the repatriation of destitute employees (their maintenance being chargeable to their employer) and section 16 provides for the recovery of the expenses of deportation.

60. The deportation of aliens is effected as soon as possible. It usually takes place within a few days after the issue of the order for detention and deportation. On very rare occasions when the alien does not wish to go back to his country, the execution of the order may take some weeks while efforts are made to find a country willing to accept him. At the time when the report was prepared, 26 aliens were under arrest, of whom 23 had been in custody less than one week.

Acquisition of immovable property by aliens

61. The right of aliens to acquire immovable property in Cyprus is not the same as that accorded to citizens of the Republic. It is not absolute and is subject to restrictions regarding the extent of the property to be owned. The Immovable Property Acquisition (Aliens) Law (cap. 109) applies. Section 3 of the Law provides:

> "The Council of Ministers may by order to be published in the Gazette declare that, except where the consent of the Council of Ministers is first obtained, no alien shall, after the date of the order, acquire otherwise than by inheritance, ownership of any immovable property situate within any area prescribed in the order, and any registration effected in contravention of the terms of such order shall be null and void."

62. Section 4 of the Law provides for the making of regulations for the better carrying out of the provisions of the Law. Under the Regulations made (Immovable Property Acquisition (Alien) Regulations of 1972) the extent of the plots into which an alien may divide the property for sale shall not be smaller than one donum and two evlecks (about 2,000 sq. m).

63. The criteria for granting to an alien a permit to acquire immovable property refer to the intended use of the property, the extent and the area of the property, and matters relating to his solvency and other personal matters. In 1992 the Council of Ministers considered a total of 460 applications, of which 408 were approved and 52 were rejected. In 1993 the Council of Ministers considered a total of 1,288 applications of which 1,080 were approved and 208 were rejected.

64. From statistical data, a total of 3,431 properties, apartments, houses, villas, buildings, plots and pieces of land are held by aliens.

65. In Cyprus there are a number of companies which have their offices registered in Cyprus but carry out their operations outside Cyprus. They are known as the offshore companies. In 1992 there were about 1,000 such companies employing 1,942 aliens and 1,795 locals. The offshore companies enjoy a number of privileges, such as lower income tax (50 per cent of the normal rate), exemption from value added tax on anything they buy, including telecommunication services, social insurance and other benefits. But the real preferential treatment extended to the said companies is enjoyed by the aliens employed by the companies who are entitled to three years' residence and the right to buy everything duty free, including two duty free cars. It must be stated that locals pay over 100 per cent duties on the price of a car.

66. Finally, it may be added that a Cypriot woman married to an alien does not lose her citizenship and neither does she lose the right to hold public office.

Article 14. Right to a fair trial

67. In Cyprus there is a clear-cut separation of the three authorities (executive, legislative and the judiciary). The independence of the judiciary is safeguarded by the Constitution and laws which were enacted providing for the appointment, promotion and transfer of judges. The judiciary does not come under the control or authority of any ministry. It is completely autonomous. The Supreme Court is the highest court in the country, exercising secondary jurisdiction as well as original jurisdiction on certain matters relating to administrative acts, the issue of prerogative writs and other specified matters. The President of the Supreme Court is appointed by the President of the Republic. The members of the Supreme Court are appointed in the same manner. They remain in office till they reach the age of 68. They are not removed from office except on the ground of serious professional misconduct (art. 153.7.(4)) of the Constitution. Also, under article 153.7.(3) of the Constitution, a judge of the High Court "shall be retired on account of such mental or physical incapacity or infirmity as would render him incapable of discharging the duties of his office either permanently or for such period of time as would render it impracticable for him to continue in office".

68. Article 153.8 of the Constitution provides for the establishment of a Council with power to decide the above matters. It reads:

"(1) There shall be established a Council consisting of the President of the Supreme Constitutional Court as Chairman and the Greek and Turkish judge of the Supreme Constitutional Court as members.

"(2) This Council shall have exclusive competence to determine all matters relating to:

(a) Retirement, dismissal or otherwise the termination of the appointment of the President of the High Court in accordance with the conditions of service laid down in the instrument of appointment;

(b) The retirement or dismissal of any Greek judge or the Turkish judge of the High Court on any of the grounds provided in subparagraphs (3) and (4) of paragraph 7 of this article.

"(3) The proceedings of the Council under subparagraph (2) of this paragraph shall be of a judicial nature and the judge concerned shall be entitled to be heard and present his case before the Council.

"(4) The decision of the Council taken by a majority shall be binding upon the President and the Vice-President of the Republic, who shall jointly act accordingly."

69. There is a similar provision in article 133, paragraph 8, for the establishment of a council with the same competence regarding the President and members of the Supreme Constitutional Court. This Council consists of the President of the High Court and the senior Greek judge and the Turkish judge of the High Court as members.

70. Owing to the intercommunal troubles which occurred in 1963 the functioning of the Supreme Constitutional Court and of the High Court became impossible and for the purpose of maintaining continuance of the administration of justice a law was enacted (Administration of Justice (Miscellaneous Provisions) Law 1964 (33 of 1964)) merging the two courts into the Supreme Court with the consolidated competence of the two original courts. Under this law a supreme council of judicature was constituted to deal with appointments, promotion, transfer, termination of service of judicial officers, as well as disciplinary offences committed by such officers.

71. The Council originally consisted of the Attorney General, the President of the Supreme Court, the two senior members of the Supreme Court, the Senior President, District Court, the Senior District Judge and one advocate with 12 years practice. The composition of the Council was amended by a subsequent law and the Council now is the Supreme Court (Law No. 3 of 1987).

72. The competence of the Council set under articles 133.8 and 153.8 of the Constitution was assigned to the Supreme Court.

73 The judicial immunity under article 153.10 of the Constitution is a further guarantee of the independence of the judiciary. It provides:

> "No action shall be brought against the President or any other Judge of the High Court for any act done or words spoken in his judicial capacity."

74. Under Law No. 158 of 1988, the number of the members of the Supreme Court was increased to 13, one of whom is the President.

75. The Ministry of Justice and Public Order, despite the inclusion of the word "justice" in its title, has in fact no involvement in the administration of justice, or the appointment, transfer and promotion of judges. It is only responsible for providing court buildings and maintaining buildings for the Prisons and for the Police. It has also other functions but they are not related to the administration of justice. Occasionally certain complaints are made to the Minister of Justice regarding the administration of justice. Such complaints (usually made by people who are misguided by the name of the Ministry) are simply referred to the Supreme Court, as the appropriate body to consider them.

76. There are no special courts in Cyprus. In fact any court which is not composed as provided for by the Constitution is unconstitutional. Article 152 of the Constitution provides:

> "1. The judicial power, other than that exercised under Part IX by the Supreme Constitutional Court and under paragraph 2 of this Article by the courts provided by a communal law, shall be exercised by a High Court of Justice and such inferior courts as may, subject to the provisions of the Constitution, be provided by a law made thereunder."

77. There are, however, courts which deal with specialized matters. They are the Industrial Dispute Tribunal; the Military Court; the Rent Tribunal; the Family Courts.

78. The Industrial Dispute Tribunal is composed of a president appointed by the Supreme Court and two assessors. The Court comes under the control of the Supreme Court. The decisions of the Court are subject to appeal to the Supreme Court. (The Court is constituted under the Annual Leave with Pay Law, 1967 (8 of 1967).)

79. The Military Court is constituted under the Military Offences and Military Criminal Procedure Law (40 of 1964). It is a first instance court with very limited jurisdiction over civilians. It is composed by three judges and has jurisdiction to try military offences committed in the Republic. The jurisdiction of the Military Criminal Court is set out in section 112 of the Law and is exercised when the offences are committed by military officers in the course of their duties, prisoners of war, deserters, or persons who are subject to military service (for offences created under the National Guard Law of 1964).

80. As far as civilians are concerned, they are under the jurisdiction of the Military Court only when they commit offences in the course of providing useful services to the army or they are exercising a business for the army, or in time of war or other emergency. As it has already been mentioned a state of emergency has never been declared since Cyprus became a Republic in 1960.

81. Also crucial for ensuring the constitutional rights of civilians is the fact that criminal prosecution under this Law is exercised by the Attorney General in the name of the Republic.

82. The jurisdiction of the Military Court can always be challenged (art. 15) and in that case the dispute will be resolved by the Supreme Court, thereby providing a guarantee that no usurpation of power will be exercised by this special court.

83. Lastly, the Military Court has jurisdiction to try offences committed by members of the National Guard.

84. The Rent Tribunal Court is composed by a single judge, appointed by the Supreme Court, and determines matters connected with rent control. An appeal against the decision of the Court goes to the Supreme Court.

85. The Family Courts were set up only recently for the purpose of giving the right to Greek Cypriots to have matters related to the dissolution of marriage determined by regular courts. The setting up of the courts necessitated the prior amendment of the Constitution, under which matters relating to marriage and its dissolution were within the exclusive jurisdiction of the ecclesiastical courts. This is the first and so far the only amendment of the Constitution.

86. Greek Cypriots can now have a civil marriage or a church marriage. The Family Courts can dissolve a church marriage. In Cyprus there are also certain small religious groups, the Armenians, the Maronites and the Latins. The Armenians belong to the Eastern Orthodox Church; divorce is recognized by that Church. The Maronites are Catholics and come under the jurisdiction of the Maronite seat in Lebanon; divorce is not recognized by them. The Latins are a small group who are Roman Catholics coming under the jurisdiction of the Pope. Divorce is not recognized for that group. For the purpose of according equal treatment to all citizens a bill has been prepared which is about to be laid before the Council of Ministers for approval, following which it will be laid before the House of Representatives for consideration and enactment. It provides for the establishment of family courts for the religious groups. These courts will then have power to dissolve marriages between members of the aforesaid groups.

87. The trials are invariably open to the public and are only conducted in camera if the court so rules. The court usually does so if it considers that such a course will be in the interests of the orderly conduct of the proceedings or if the security of the Republic or public morals so require (art. 154 of the Constitution). Judgements are always delivered in open court. The openness of hearings is not confined to trials but extends to other areas of judicial or quasi-judicial functions. One of them is the

holding of public inquiries under the Commission of Inquiries Law (cap. 44). Complaints against police officers before a board set up under the Police (Discipline) Regulations of 1989 are also heard in open sittings.

88. A suspect is treated not only by the courts but also by law enforcement and other authorities as innocent, but this does not mean that a public officer under suspicion may not be suspended until the termination of the trial if his remaining in office may prejudice the interests of justice or the outcome of the trial.

89. In Cyprus a person is not committed to prison and no order is issued directing him to do or refrain from doing anything and no order is made entailing confiscation of property or disqualification from holding a licence to drive unless that person is present in court.

90. The procedure followed prior to trial (in summary trials) is to serve the suspect with a summons calling on him to appear before the court on a fixed day. If he does not appear and there is proof of service of the summons, the court may either issue a warrant for his arrest or, if the case is not of a serious nature and the contemplated punishment is pecuniary, it proceeds to hear evidence proving the facts on which the charge is based. Even at this stage if a more severe punishment is more suitable to the case, the court may adjourn the case and issue a warrant for the arrest of the suspect for the purpose of his being brought before the court.

91. In serious cases (trials by assizes) the suspects are either kept in custody till their trial or are allowed to be at large on recognizances, with or without sureties.

92. No criminal case can reach the stage of trial without proof of service of the summons or when it is practically impossible to bring the suspect before the court.

93. Judges hear complaints or allegations of violation of the rights of the accused even if this may prejudice the case of the prosecution in certain respects. If, for instance, a search is carried out contrary to law, anything found as a result of the search cannot be produced in evidence. A very recent example of the respect the courts have for the protection of the human rights of individuals is the acceptance of a motion made by the accused in a criminal case to the effect that the fairness of the trial was prejudicially affected by the extensive publicity the mass media had given to the case, amounting to prejudging the result of the case.

94. Incidents of miscarriage of justice in Cyprus are rare, probably because the judges are legally qualified and trained and also because of the safeguards accorded to the accused for a fair trial and because of the well tried evidentiary system.

95. It would be too presumptuous to say that there are no miscarriages of justice, but there are no such reported cases. If such a case does occur there is no legal right of the unjustly convicted person to claim damages.

However, the Government would probably pay fair compensation to the victim in the same way it compensates, with or without admission of liability, victims of criminal acts or victims of misadventure.

96. The following are some examples of gratuitous payment made by the Government to persons who suffered injuries or lost their lives unjustly, due to no fault of their own:

(a) Compensation was paid to the relatives of a customs officer who was guarding a ship under arrest. The ship was stolen and the customs officer went overboard and was drowned.

(b) Compensation was paid to a person injured by the bombing of a car, obviously by terrorists.

(c) Compensation was paid to the relatives of a man who was drowned in attempting to save another person from drowning.

(d) Compensation was paid to the Director of Prisons and the president of a district court for damages caused to their properties by bombing. The compensation was paid because the incidents were thought to be connected with the aforesaid officers' performance of their official functions.

(e) Compensation was paid to a person who was illegally detained.

97. The Government of Cyprus has acceded to the European Convention for Compensation to Victims of Violent Crimes, which provides for the payment of compensation to victims of violent crimes in cases where no compensation is obtainable from other sources. Following this a bill has been prepared entitled Compensation to Victims of Violent Crimes, providing for the payment of compensation for such victims. The bill provides for medical treatment up to £500, payment of disability pensions and pensions for dependants in case of death, and funeral expenses. No compensation is payable under this Law if:

(a) The victim is involved in organized crime.

(b) He is a victim of his own criminal action.

(c) The crime was not reported within five days from its commission.

(d) The victim did not cooperate with the police.

The bill has already been sent to the Council of Ministers for approval.

Privacy

98. The following Laws contain provisions relating to the right of the authorities to interfere with correspondence or communication in certain cases. But it must be stated at the outset that these laws were enacted prior to the Constitution coming into force and they have to be applied and interpreted in the light of the constitutional interpretative provisions (art. 188).

99. Under the Post Office Law (cap. 303) certain powers of interference are given to the authorities. Section 19 gives power to a customs officer to open and examine parcels sent by mail from abroad for the purpose of assessing the customs duties to be charged thereon. Section 20 gives the Postmaster General power to retain postal packets that contain goods which it is prohibited to import, and to open them in the presence of the addressee. Section 31 makes it an offence for post office employees to open postal packets contrary to their duties.

100. The Telegraphs Law (cap. 305) contains provisions enabling the Council of Ministers to take possession of telegraphs or telegraph lines and to order interception, disclosure or production of telegraphs in a public emergency or in the public interest (sect. 6).

101. Under section 7 of the Criminal Procedure Law (cap. 155) the Council of Ministers may require the production of telegrams if during the investigation of an offence it appears to it that such a course is expedient in the public interest.

102. Cyprus has not as yet ratified the European Convention for the Protection of Individuals with regard to automatic processing of personal data. However, the Ministry of Justice and Public Order, in cooperation with the Office of the Attorney General and the Law Commissioner, is considering the enactment of legislation incorporating provisions from the Convention as well as from certain Recommendations of the Committee of Ministers on the Protection of Personal Data used for payment and other related operations.

103. In the contemplated law provisions similar to articles 7 and 8 of the aforesaid European Convention will be included regarding data security and additional safeguards for the data subject.

104. During the Conference held in Athens in respect of the aforesaid Convention, a model law was prepared for the implementation of the provisions of the Convention. This model may be used as the basis of the contemplated legislation in Cyprus. In particular provisions will be included in the new law:

(a) For measures ensuring that personal data do not reach the hands of unauthorized persons;

(b) For machinery facilitating the individuals concerned to ascertain what personal data are stored in automatic data files, for what purpose and by what authority;

(c) For according individuals the right to request rectification or deletion of private information relating to them.

105. In addition to the provisions contained in the Criminal Code (cap. 154) relating to criminal libel, an individual whose reputation has been damaged by libellous utterances and publications also has the right to claim damages and an injunction in the civil courts. The relevant provisions contained in the Civil Wrongs Law (cap. 148) are:

Section 17 Defamation;

Section 18 Publication of defamatory matters;

Section 19 Special defences to action for defamation;

Section 20 When publication of defamatory matters absolutely privileged;

Section 21 When publication of defamatory matters conditionally privileged;

Section 22 Unintentional defamation;

Section 23 Mitigation of compensation for defamation;

Section 24 Special defence in case of defamatory matters published in newspapers;

Section 25 Injurious falsehood.

Article 18. Freedom of religion

106. The position, regarding the compulsory military service of conscientious objectors, has been changed by Law No. 2 of 1992, which amends to the National Guard Laws of 1964 to 1989.

107. In particular, a conscientious objector, who has been recognized as such by a decision of the Minister, may perform "unarmed military service without military uniform and outside a military area" (which means military service in an area which is not under the command or control of the Commander of the Force and without the obligation to bear weapons or wear military uniform) or "unarmed military service with military uniform and within a military area" (which means military service in an area which is under the command or control of the Commander of the Force and with the obligation for a military uniform to be worn, but without the obligation for a weapon to be borne).

108. Armed military service with military uniform and within a military area is of a duration of 24 months. Unarmed military service without military uniform and outside a military area is of a duration of 42 months and for those who choose unarmed service with military uniform and within a military area the period of service is 34 months.

109. In order to strike a balance between the different kinds of military service, it was thought necessary to establish a difference in the duration of each kind of compulsory service.

Article 23. Freedom to marry

110. In Cyprus the term "family" has a different meaning depending on the context in which it is being used. The restricted meaning is to be found in the laws for the protection of children, where it means the father, mother and children. It has the same restricted meaning when reference is made to the

marital or family home. In a broader sense, covering father, mother, children and grandparents, it is used in reference to prevention of violence in the family. (A bill is pending in the House of Representatives.)

111. Traditionally in Cyprus the grandparents reside with their children and this may find its roots in dowry-giving, a custom still prevailing in the island, although to a lesser extent, today. Hopefully it will disappear in the next decades. The parents gave their property, including their marital home, to their daughter in consideration of her marriage and the two couples lived in the same house or the parents moved to another house. In their older years they lived with their children. This worked more or less satisfactorily until wives ceased to be the sole caretakers of the household and of their ageing parents, and other arrangements are now being made. It is in the above context that one must see the notion of "home" which in effect is the home of the family or families living in it from time to time.

Article 24. Children

112. The following information is given supplementary to the second report:

Age of criminal responsibility

113. According to section 14 of the Criminal Code (cap. 154) of the Laws of Cyprus, a person under the age of seven years is not criminally responsible for any act or omission. A person between the age of 7 and 12 years is not criminally responsible for an act or omission, unless it is proved that at the time of the act or omission he had the capacity to know that he ought not to do the act or to make the omission. Furthermore, under the same section, a male person under the age of 12 years is presumed to be incapable of having carnal knowledge.

Different treatment of children offenders

114. The Juvenile Offenders Law (cap. 157) deals with children offenders (under 14 and not over 16 years). It treats them differently from adult offenders taking into account their tender age and their welfare and rehabilitation. Under this Law, cases against juvenile offenders are heard by a juvenile court sitting in a different building or different room from that in which the ordinary sittings of the District Court are held, or on different days or at different times from such sittings, and privacy is fully respected at all stages of the proceedings. Also, the Court must explain in simple language to the child or young person brought before it the substance of the alleged offence. Furthermore, the Court invariably obtains information as to the child's or young person's general conduct, home surroundings, school record and medical history. With the aim of emphasizing prevention rather than punishment a new procedure was adopted in 1978 for dealing with juvenile delinquents in cooperation with the police and the Attorney General, so as to avoid penal measures for persons under 16 years of age. The essence of the current procedure is to treat such cases as children needing help rather than deal with them as young offenders. The handling of such cases is usually entrusted to the Welfare Department, the services of which are offered to the family of the child as a whole.

Children deprived of their liberty

115. Special measures are taken when children are deprived of their liberty. Under section 7 of the Juvenile Offenders Law (cap. 157), a court on remanding or committing for trial a minor who is not released on bail, shall where practicable, instead of committing him to prison commit him to custody in a police station. The police have the duty to make arrangements for preventing the association of the minor with adult detainees.

116. When dealing with cases where children and young persons are suspected of having committed an offence, the police make certain that the parents or guardians as well as the divisional police commander are promptly informed. Where the suspect is a pupil, arrest and examination at school is avoided; when such a course is absolutely necessary, it is carried out only with the consent and in the presence of the schoolmaster.

Exploitation of children

(a) Economic and employment exploitation

117. The Children and Young Persons (Employment) Law (cap. 178) (as amended by Law No. 239 of 1990) provides that:

(a) No child under the age of 15 shall be employed in any occupation;

(b) No child (i.e. under the age of 16) shall work or be employed in any industrial undertaking;

(c) No child or young person shall work or be employed in any underground occupation or in mines.

118. The Children and Young Persons (Employment) Law (cap. 178) expressly prohibits the employment of children and young persons in a number of trades and occupations, listed in Part I, II and III of the Schedule to the Law, which are likely to jeopardize their health or safety.

119. Further to the above, the implementation of article 32 of the Convention on the Rights of the Child which has been ratified by Law 243 of 1990 is ensured through:

(a) The various provisions of the Children and Young Persons (Employment) Law (cap. 178), which regulates the hours of work and imposes certain restrictions on their employment at night;

(b) The Annual Holidays with Pay Laws (1967 to 1980) guaranteeing the right of every employee (including persons under the age of 18) to a minimum of annual holiday with pay;

(c) The collective trade and industrial agreements in which there are provisions specifying, inter alia, minimum wages for young workers and apprentices under the age of 18;

(d) Specific vocational training schemes specially geared towards the needs of young persons.

120. Notwithstanding the above legislation and other measures, it is pointed out that in practice the vast majority of persons under the age of 18, attend full-time primary education.

(b) Drug abuse (art. 33)

121. All provisions of the Law which are related to the illegal use, possession and trafficking of narcotics concern all persons regardless of their age. However, the problem of drug abuse among young people remains one of the most serious problems and one of the major concerns of the authorities in many countries. Despite the fact that Cyprus is at a crossroads of drug traffickers, and the fact that a large number of tourists visit the island every year we are still not facing a real problem of drug trafficking and addiction.

122. The police are taking steps in the field of prevention, information and education, in cooperation with voluntary associations and other governmental departments. Preventive work is effected in cooperation with police, social services, schools and associations.

123. The Government of the Republic has recently revised its legislation regarding narcotic drugs and psychotropic substances by increasing the sentences (The Narcotic Drugs and Psychotropic Substances (Amendment) Law 20 (1) of 1992) for all narcotic offences and by enacting new legislation providing for the confiscation of the illicit proceeds from drug trafficking (Forfeiture of Proceeds from Illegal Trafficking of Drugs and Psychotropic Substances Law 39 (1) of 1992) and for the treatment and rehabilitation of drug dependants (Treatment and Rehabilitation of Drug Dependants Law 57 (1) of 1992). Under the last mentioned Law, a person under the age of 18 may, upon application to the court, be ordered to be confined in a detoxification centre for the purpose of detoxification and rehabilitation.

(c) Sexual exploitation, sale, trafficking and abduction

124. The Criminal Code (cap. 154) contains provisions whereby the following acts are offences:

Unlawful abduction of unmarried girls under the age of 16 years, out of the custody or protection of father, mother, guardian and without their consent (sect. 149);

Defilement or attempt to defile females under the age of 16 years (sect. 154);

Allowing a child or young person to frequent a brothel;

Unnatural offences against children under 13 years of age (sect. 174);

Unlawful abandonment or exposure of any child under the age of two years endangering thereby the life of the child or permanently injuring its health (sect. 181);

Unlawful and intentional stealing of children under the age of 14 years (sect. 185);

Kidnapping of male children under the age of 14 years or females under the age of 16 years (sect. 246).

The whole part of the Criminal Code dealing with sexual offences is currently under review.

Measures necessary to foster the development of their personality

(a) Parental guidance and responsibility

125. In Cyprus family social policy is based on the principle that family life is the most important setting for the socialization of a child and recognizes the fundamental role it has to play in the biopsychosocial development of the child. In consequence, a very central place in social welfare policy is attributed to preventive services. Counselling is provided to families for the purpose of guiding them as to the exercise of the parental role and enabling them to function more adequately for the benefit of the children.

126. The Law on the Relations between Parents and Children clearly recognizes that "the care of the child is the duty and right of the parents who shall exercise this jointly" (sect. 5 (i)).

127. At the same time, however, the Government acknowledges that in our times, when more and more women are entering the labour force, parents need to be strengthened and supported by means of practical assistance to ensure that they fulfil their role as best they can. This principle is within article 18, paragraphs 1 and 2 of the Convention on the Rights of the Child.

128. During the past years greater emphasis has been placed on the provision of concrete services to families and more and better child care resources have been made available with the aim of assisting and enabling families - parents in particular - to perform their child-rearing responsibilities. In this way, the role of parents, which is increasingly becoming more complicated because of increased demands on the family due to rapid social changes, becomes more manageable. Some of these programmes, which are run by the State, are the following:

1. Day-care centres

129. The State runs a limited number of day-care centres for preschool children. Priority for attendance is primarily given to children of working mothers. However, the involvement of the community and local authorities is actively pursued in the areas of problem prevention in general. The State provides financial and technical assistance to local authorities and voluntary organizations in order that they may set up and run community programmes facilitating children such as day-care centres for preschool, as well as

school-age children. A recent survey carried out by the Department of Social Welfare Services has shown that a considerable number of school age children - below the age of 11 years - stay at home alone and unsupervised, while waiting for their parents to return from work. This finding alerted the Department, which in turn alerted local authorities in areas where the facilities for school-age children are not sufficient. In consequence, in the last few months alone nine new community day centres for school-age children have started operating, increasing the total to 21.

130. The Ministry of Education for its part has been expanding preprimary education to meet the needs of preschool children. As places are limited, priority is given to children of working parents. Government support has taken the following forms:

Setting up of new public nursery schools;

Subsidizing of community nursery schools;

Encouraging and assisting private nursery schools;

Initiating and facilitating the establishment of leisure centres or children's clubs to occupy children of working parents in the afternoons after school hours.

131. Although in the past, most nursery schools operated in the morning (7.30 a.m. to 1.30 p.m.), during the last three years the daily programme has expanded to cover additional afternoon hours in order to provide care as well as education to children of working parents.

2. Home-help services for families with children

132. This programme is a rather new development and its purpose is to meet the needs of families facing numerous problems, and in particular:

(i) To help families develop housekeeping and social skills in order that they may carry out their roles more effectively and gradually assume their responsibilities in the house;

(ii) To promote protective care for abused or neglected children where mothers may be taught how to care for their children;

(iii) To offer assistance and facilities (assuming the role of a "substitute mother") in cases where the mother has to be temporarily hospitalized and the father is not in a position to undertake responsibility for the care of the children. This, in effect, prevents the removal of children from their homes.

3. Day care in foster families

133. This service was introduced recently. Selected foster families care for children who have special needs and come from problem families. Special help and positive experiences are provided in a healthy environment for the whole

day or part of the day at the same time partially relieving the family from the stress of having constantly to look after a child with special needs. Again, in this way the removal of the child from home can be avoided.

(b) Separation from parents

134. Even though every effort is made to keep children at home with their own families, this is not always possible.

135. The Director of the Department of Social Welfare Services is empowered by the Children Law (cap. 352) to take into his care children who are in need of care and protection and must be removed from their home. Where parents do not consent to their child being taken into the care of the Director, a court order is obtained. In an emergency, the Director can proceed and place a child under his care and even assume parental rights for the child (for example, in cases of child abuse) without going through the motions of court proceedings. In the event of this happening without the parent's consent, the parent has the right to object to this assumption of parental rights and the court will then decide whether it was rightfully made or not. It is to be noted here that the Department of Social Welfare Services is very sensitive to the rights of the child and its parents to the maintenance of contact between them and sees that this is safeguarded. It is in very rare cases that such communication is not encouraged. This may happen when such contact is considered to be against the best interests of the child. In order to encourage contact, the Department reimburses the travel expenses of the parents so that their efforts to maintain personal contacts with their child are not impeded by financial difficulties.

136. The Parents and Children Relations Law 1990 which provides that parental care must be exercised jointly by both parents for the best interest of the child, provides also that in cases of divorce, annulment of marriage or separation of the parents, the court decides as to whom the parental care should be given. In such a case, the court takes into consideration among other things, the interest of the child and hears also his/her views. However, if parental care is not exercised properly by either parent, it can be taken away by the court. If parental care is taken away from both parents, the court can appoint a guardian to whom parental care is given.

137. In Cyprus there is one category of children whose right to have regular contact with their parents is being violated. These are the children whose parents live in the occupied part of the island where there are no secondary education facilities. These children are either deprived of secondary education or are separated from their parents in order to attend secondary schools in the free areas. They live in boarding houses run by the State and the younger ones are only allowed by the occupying forces to visit their parents during festive periods (Christmas, Easter). Older children are not allowed to visit at all, while those wishing to return to their homes, on completion of their education, are prevented and are, therefore, obliged to live in the government controlled areas away from their families.

(c) Family reunification

138. If it is considered in the best interests of a child living apart from its parents in another country to reside with its parents, then efforts are made for family reunification. Before any final arrangements are made to this end, however, the Department has to be satisfied that circumstances in the natural family permit such a family reunion. Where parents and children reside in different countries, International Social Services has a substantial role to play in liaising between the parties involved. The Department works quite closely with this organization in all matters concerning children.

(d) Recovery of maintenance for the child

139. The Relations between Parents and Children Law provides that "parents have an obligation to maintain their children each one according to his or her ability". In cases where the parents have separated or are divorced, the non-custodial parent pays maintenance for his child based on his financial resources. Failure to meet this obligation is an offence and the State employs the appropriate mechanisms to ensure that the parent involved abides by his legal obligations.

140. It should be noted that in 1978 Cyprus ratified, by Law 50/78, the Convention on the Recovery Abroad of Maintenance in accordance with which maintenance orders can be enforced on the principle of reciprocity. In addition the Republic of Cyprus has signed bilateral agreements with a number of countries which provide for the registration and enforcement of maintenance orders.

(e) Children deprived of a family environment (art. 20)

141. As already mentioned, the Children Law (cap. 352) provides for the removal from home and protection of children who, for their own best interests, cannot be allowed to remain in their family environment. The Department of Social Welfare Services makes provisions for alternative care for such children. The various programmes available are described below.

1. Foster families

142. In accordance with the Children Law (cap. 352), the Department is responsible for the study and selection of foster families with which it places children against payment. When placing a child, due regard is paid to the child's ethnic and religious background. Mixed marriages are recently on the rise in Cyprus, which is a new development becoming more and more a matter of concern and has caught us somewhat unprepared. There have been cases, albeit few and far between, where it has not been made possible to place a particular child of a certain religious background with foster parents of the same religious affiliation.

143. Foster parents are regularly supervised by social workers to make sure that all the needs of the child, physical and mental, are duly met. A total of 109 children are at present placed in foster homes.

144. Group foster homes were introduced in 1986 and are used mainly in cases where more than one child from the same family are taken into care. In this way, siblings are able to stay together. Group foster homes operate with governmental or other voluntary support.

2. Institutional care

145. Other facilities providing substitute care for a child whose parents cannot or will not perform their parental role are the residential institutions. The Department of Social and Welfare Services operates:

(i) Four Children's Homes, one in each district, for children aged 5 to 14 years. These homes are small enough to create a family atmosphere and intimate and personal relationships can thus be cultivated;

(ii) One boy's hostel for delinquent or predelinquent boys of 12 to 18 years;

(iii) A home for severely retarded children aged 5 to 16 years.

146. Apart from the above State-run services, homes for children with special needs have been established by the private sector and voluntary organizations. The Department is responsible for the registration and inspection of these programmes. The number of children placed in State-run institutions is currently 113.

(f) Adoption

147. In accordance with the Adoption Law (cap. 274) the court appoints a welfare officer to act as a guardian ad litem of the child upon the hearing of the application for adoption, with the duty of safeguarding the interests of the child. The welfare officer submits a socio-economic report to the court stating whether the adoption of the particular child is recommended or not. The case is supervised by the welfare officer for at least three months before the preparation of the report. The law regarding adoption is under review and a bill for a new adoption law is pending before the House of Representatives. The main innovative features of the bill are:

(i) Ecclesiastical adoption ceases to be a necessary requirement for a lawful adoption. Under the existing law (cap. 274) and ecclesiastical law concerning adoption, the Civil Court will not issue an adoption order unless an ecclesiastical adoption has been achieved. However, it has been noticed that the duplication of procedure creates not only delays and anxiety for the interested parties but also problems due to the intrinsic conflict between the provisions of the two sets of laws concerning adoption.

(ii) The placement of minors for adoption purposes will be effected either through the Governmental Agency of Social Welfare or directly by the person responsible for the case of the minor,

provided that he/she fulfils certain requirements. It is believed that both private initiative and Government services are capable of making the proper arrangements for the adoption of minors.

(iii) The Governmental Agency of Social Welfare will be informed of all adoption cases before an application for adoption is submitted to the court. Thus it is believed, improper initial placements will be avoided since an interim order can also be sought and issued where it is considered that a suggested placement will have prejudicial consequences for the minor.

(iv) New provisions for the protection of the adopted child when removed before an adoption order is issued and the provision of information to the adopted child concerning his origin and natural parents are also included in the Bill.

(g) Illicit transfer and non-return

148. The Government of Cyprus does not permit the illicit transfer of children in and out of the country. Transfers are permitted only if they are to join their parents, a guardian or a relative. A minor cannot enter the country unless he is accompanied by a parent or guardian or relative and/or is expected by someone who can be considered responsible for the child. It should be noted that Cyprus, by Law 36/86, has ratified the European Convention on Recognition and Enforcement of Decisions concerning the Custody of Children and on the Restoration of Custody of Children. Also the Council of Ministers of the Republic has approved the accession of the Republic to the Hague Convention on the Civil Aspects of International Child Abduction (Decision 39.284 of 12 May 1993).

(h) Abuse and neglect, including physical and psychological recovery and social reintegration

149. Regarding the protection of children from abuse and the role of the Department of Social Welfare Services, reference has already been made in previous parts of the report to existing legislation and measures of dealing with the problem. Other measures, however, have been initiated by the State, as well as the private sector, and are in force to deter and combat the problem of child abuse.

1. State measures initiated

150. In Cyprus child abuse cases that come to the attention of the appropriate authorities are limited in number. However, the considerable severity of some of them in the past four to five years alerted the professionals involved in child development and welfare, who identified the need for a coordinating body and appropriate mechanisms for a uniform handling of the problem. A permanent committee for the handling of the problem of child abuse was, therefore, set up in October 1990. The goals of this Committee are mainly:

(i) To study and follow up on the development of the problem of child abuse;

(ii) To study and make suggestions to the Government for the prevention as well as the therapeutic handling of the problem of child abuse.

(iii) To design and follow up on the mechanisms and coordinating procedures of the actions of all professionals involved with the issue of child abuse.

(iv) To form and follow up the undertakings of specially set up working groups to carry out specific projects. One such specialized working group is a multidisciplinary therapeutic team consisting of various professionals (child psychiatrist, psychologist, paediatrician, social worker, etc.) that has been operating in the hospital to handle child abuse referrals and in particular to intervene therapeutically in the family of the victim, with the aim of preventing the future occurrence of violent behaviour against the child.

151. It must be mentioned that there is a bill pending before the House of Representatives for a new law providing for the prevention of violence in the family. The bill does not aim solely at the protection of the wife but also at the projection of all members living in the same household including children, parents and other relatives. The new law empowers the court to order the removal of a child victim of violence from his house. A child is considered a victim of violence even when there is no direct violence or if it is simply a witness of repeated acts of violence committed by one member of the family against another. See also paragraph 8.6.

2. Private measures initiated

152. A Centre for the Immediate Help of Victims of Domestic Violence is run by the Association for the Prevention and Handling of Domestic Violence (a voluntary organization). Specific aims of this programme are: the provision of immediate help in crisis situations at the request of victims, psychological support to victims, guidance and counselling, legal advice and shelter in emergency situations. Help is mainly delivered on the telephone and sometimes through personal interviews as well. The Centre operates from 8.00 a.m. to 4.00 p.m. A need to operate the Centre on a 24-hour basis has recently been identified. The programme is partly funded by the State.

(i) Periodic review of placement

153. All placements of children are periodically reviewed. Treatment offered and goals hitherto achieved are assessed and new objectives are set. Every child's case is discussed at least once every six months for the first two years after his reception into care and accordingly thereafter. Special committees which operate locally in each district welfare office have been set up for this purpose.

Additional information concerning the health and welfare of children in Cyprus

154. Children in Cyprus in general enjoy favourable conditions of development and survival, as reflected in the following health indicators:

Life expectancy at birth

1987/1991 Males: 74.1 years; Females: 78.6 years

Total fertility rate

1988-1991: 2.41

Crude birth rate

1991: 18.6/1,000 population

Infant mortality

11 deaths per 1,000 live births